

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Toribio	Team: Team # 8	CCRB Case #: 200105773	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/27/2001 8:45 AM	Location of Incident: § 87(2)(b) Brooklyn	Precinct: 70	18 Mo. SOL 1/27/2003	EO SOL 1/27/2003	
Date/Time CV Reported Fri, 07/27/2001 11:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/02/2001 2:39 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Brian McGinn	00000	910284	B/S-END
2. Officers			
3. DT3 Irma Martinez	00173	910661	B/S-END

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Thomas Fraumeni	01803	879668	
2. DT3 Francis Loporto	05830	888963	B/S-END
3. DT3 Timothy Lee	07170	895635	B/S-END
4. DT3 Kenneth McGinn	07246	899565	B/S-END
5. DT3 John Fanizzi	07652	903887	B/S-END
6. DT3 Paul Tacconi	06232	899888	B/S-END

Officer(s)	Allegation	Investigator Recommendation
A.LT Brian McGinn	Abuse: Lt. Brian McGinn supervised the entry and search of § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: An officer pressed a weapon against § 87(2)(b)'s head.	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
D.DT3 Irma Martinez	Force: Det. Irma Martinez used physical force against § 87(2)(b)	§ 87(2)(b)

Synopsis

On July 27, 2001, police officers from the Brooklyn South Narcotics District executed a search warrant inside apartment § 87(2)(b) at § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) alleges that officers used physical force against him, resulting in bruises to his body. In addition, he claims that an officer pressed a gun against his temple. § 87(2)(b) wife of § 87(2)(b) was eight months pregnant at the time and alleges that a female officer, identified as Det. Martinez, threw her against on top of her bed and handcuffed her. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

At approximately 10:53 AM on July 27, 2001, § 87(2)(b) § 87(2)(b)'s neighbor, called 911 on behalf of § 87(2)(b). They complained that earlier in the morning, six to eight plainclothes officers had entered § 87(2)(b)'s apartment and had assaulted him. After searching the apartment, the officers left. This call was referred to IAB and the complaint was lodged under IAB Log No. 01-15046 (Enclosure 4D - D).

At 12:00 PM, Sgt. Debre Leslie responded to § 87(2)(b) and prepared a complaint report. § 87(2)(b) who does not speak or understand English, was accompanied by his wife and by § 87(2)(b) who acted as a translator (Enclosure 3A - D). The couple alleged that at approximately 8:45 AM, six to seven officers in plainclothes entered their apartment and began to punch and kick § 87(2)(b). § 87(2)(b) alleged that an officer threw her on the bed when she tried to help her husband.

§ 87(2)(b) was treated at § 87(2)(b). There, he told the medical staff that "he was hit by police officers" (Enclosure 6A - B).

At the hospital, § 87(2)(b) was interviewed by IAB investigators (Enclosure 7). He indicated that six plainclothes officers broke into his apartment at approximately 9:00 AM. One of the officers immediately hit him with a police protective shield in the face and his nose began to bleed. The same officer wrestled § 87(2)(b) to the ground and handcuffed him. As he lay face down on the ground, handcuffed, five other officers proceeded to kick him several times on his right leg and lower back area. The officers asked him where the drugs were. § 87(2)(b) indicated that his wife and another female, § 87(2)(b) were also present in the apartment. After searching the apartment, the officers only found a crack pipe and informed § 87(2)(b) that he would not be arrested. After the officers left, § 87(2)(b) began experiencing pain in his leg and lower back, thus he asked his friend, § 87(2)(b) to call an ambulance.

§ 87(2)(b) was interviewed by the CCRB on March 22, 2002 (Enclosure 8A - C). He reiterated his prior statements and provided additional details about the incident. The apartment has three bedrooms, and § 87(2)(b) rented two of those rooms to § 87(2)(b) and to a male by the name of § 87(2)(b). § 87(2)(b)'s wife, § 87(2)(b) and § 87(2)(b) were present at the time. § 87(2)(b) was not in the apartment. § 87(2)(b) explained that he was in the bathroom when the officers first came into his apartment. Five plainclothed officers immediately rushed § 87(2)(b).

§ 87(2)(b) and grabbed his arms. Initially, § 87(2)(b) who does not speak English, did not know that it was the police coming into his apartment. § 87(2)(b) was asking in Spanish what was going on, but got no response. One of the officers hit § 87(2)(b) with a large shield, while other officers hit § 87(2)(b)'s legs in an attempt of taking him down to the ground. § 87(2)(b) finally went down to the ground, where he was lying on his stomach. Officers continued to hit § 87(2)(b)'s legs as other officers grabbed his arms and placed them behind his back. At the same time, another officer pressed a gun against § 87(2)(b)'s temple. § 87(2)(b) then felt as his hands were cuffed. At that point, the officers stopped hitting him and the gun was taken away from his temple. § 87(2)(b) did not get a good look at the weapon. In the meantime, § 87(2)(b) heard his wife yelling, crying and screaming. From his position on the ground, § 87(2)(b) saw a female officer, later identified as Det. Martinez, grab his wife, who was on the doorway of their bedroom. § 87(2)(b) came out of her bedroom and was able to speak with the officers. § 87(2)(b) acted as a translator and § 87(2)(b) learned that the officers were looking for drugs. § 87(2)(b) remained on the ground as officer searched the apartments. Once the search was over, an officer uncuffed § 87(2)(b). He saw that his wife was still crying and was handcuffed. § 87(2)(b) was uncuffed and officers left the apartment. § 87(2)(b) began experiencing pain to his back so he called an ambulance. His neighbor from the second floor, § 87(2)(b) came to see § 87(2)(b) and told him that he had heard as some officers said that they had gone into the wrong apartment. § 87(2)(b) was transported to the hospital. To this date, he is experiencing back pains and has been unable to return to his job as a construction worker.

On April 24, 2002, § 87(2)(b) was shown nine single photographs of possible subject officers (Enclosure 9A - L). He recognized Det. Irma Martinez as the female officer on the scene. He also recognized Det. Loporto and Det. Lee as § 87(2)(b). § 87(2)(b) that all of the officers on the scene, except Det. Martinez, punched him.

§ 87(2)(b) was interviewed by IAB on July 27, 2001 (Enclosure 10) and by the CCRB on March 22, 2002 (Enclosure 11A - C). § 87(2)(g) At the time of the incident, § 87(2)(b) was eight months pregnant. § 87(2)(b) stated that she was inside her bedroom when the officers first came into the apartment. At first, § 87(2)(b) was not aware that the people rushing into the apartments were police officers. When she heard the noise of officers coming in, § 87(2)(b) stood on the doorway of her bedroom, looking towards the front door. § 87(2)(b) came out of the bathroom and was immediately rushed by several officers. The officers were grabbing § 87(2)(b)'s arms in an attempt to take him down to the ground. § 87(2)(b) as her husband, does not speak English and both were asking the officers, in Spanish, what was going on. The officers took her husband down to the ground, where he was lying on his stomach. A female officer, later identified as Det. Martinez, then approached § 87(2)(b). At the same time, another officer placed a gun to § 87(2)(b)'s head and cocked the weapon. § 87(2)(b) became hysterical because she believed her husband was going to be killed. Det. Martinez pushed § 87(2)(b) inside the bedroom by the shoulders. Inside the bedroom, Det. Martinez took § 87(2)(b) in front of the bed, turned her body around so that § 87(2)(b) was facing the bed, and then pushed § 87(2)(b) on top of the bed. § 87(2)(b) landed on her stomach on top of her bed. Det. Martinez proceeded to handcuff § 87(2)(b). She was yelling and asked the officer why her husband was handcuffed. However, Det. Martinez did not respond. § 87(2)(b) was able to hear that her husband was yelling at the officers and asking her if she was okay. Det. Martinez then escorted § 87(2)(b) to § 87(2)(b) bedroom. After speaking with § 87(2)(b), § 87(2)(b) learned that the officers were looking for drugs. After the apartment was searched, § 87(2)(b) and § 87(2)(b) were uncuffed and officers began to leave. § 87(2)(b) confirmed that the second floor neighbor came upstairs after the officers had left and that an ambulance was called for her.

husband. As a result of the incident, § 87(2)(b) experienced extreme abdominal pains and gave birth shortly thereafter.

On April 24, 2002, § 87(2)(b) viewed nine single photographs of possible subject officers (Enclosure 12A - L). § 87(2)(b) identified Det. Martinez as the female officer who threw her on top of the bed and handcuffed her. She also recognized Det. Lee and Det. Fanizzi as officers who dealt with her husband.

Results of Investigation

Civilian Witnesses

§ 87(2)(b) was interviewed by IAB on July 27, 2001 (Enclosure 13). She was in her bedroom when the officers came into the apartment. Officers knocked on her door and asked her to come out to the hallway. When she did so, she observed § 87(2)(b) try to run into the bathroom and police officers were trying to restrain him. § 87(2)(b) was also moving his arms, thus resisting arrest. § 87(2)(b) was unable to see whether or not officers kicked § 87(2)(b). § 87(2)(b) then became upset and she was handcuffed by a female officer. § 87(2)(b) was not handcuffed.

§ 87(2)(b) was interviewed by the CCRB on August 28, 2001 (Enclosure 14A - C). § 87(2)(b) indicated that the officers were wearing blue jackets with the word NYPD written on white. When § 87(2)(b) exited her bedroom, § 87(2)(b) was already on the ground, handcuffed near the bathroom. § 87(2)(b) did not see any officers hitting or kicking § 87(2)(b). It was the female officer, Det. Martinez, who informed § 87(2)(b) that the officers had a search warrant for the apartment. § 87(2)(b) sat on the ground while the officers searched the apartment. In the meantime, § 87(2)(b) was placed in § 87(2)(b) bedroom. § 87(2)(b) indicated that she was not handcuffed. § 87(2)(b) confirmed that after the officers left the apartment, the neighbor from the second floor, § 87(2)(b) came into the apartment. He told § 87(2)(b) to call for an ambulance to document that officers had injured him and also asked him to file a complaint. § 87(2)(b) did not see an officer place a weapon to § 87(2)(b)'s head.

§ 87(2)(b) was interviewed by IAB on July 27, 2001 (Enclosure 13). § 87(2)(b) lived in apartment § 87(2)(b). As the officers left the building, he heard them talk among themselves that they had searched the wrong apartment. He then went up to § 87(2)(b)'s apartment and learned what had happened.

§ 87(2)(b) was not inside the apartment when the warrant was executed. He was not a witness to the main allegations in this case. § 87(2)(g)

Police Officers' Statements

Lt. Brian McGinn was interviewed at the CCRB on July 2, 2002 (Enclosure 15A - D). He was the highest-ranking officer and supervisor of the operation. Lt. McGinn indicated that all the officers who participated in the search warrant execution were in plainclothes. The warrant was obtained by Det. Loporto who was assigned as the arresting officer. § 87(2)(e), § 87(2)(f)

At the time of the interview, Lt. McGinn reviewed the tactical plan for this operation. He indicated that the tactical plan was prepared prior to the execution of the warrant and reviewed by himself and Sgt.

Fraumeni. He was confronted with a line on the tactical plan, which indicates that the location was apartment § 87(2)(b). Lt. McGinn stated that that was a typographical error. He explained that the target apartment was § 87(2)(b). He pointed to another line on the tactical plan, which states that the target location was opposite to § 87(2)(b) and had a silver steel front door with no markings on it. § 87(2)(e) § 87(2)(f) Lt. McGinn continued by stating that there were only two doors on the third floor. The front door of apartment § 87(2)(b) had numerous markings and stickers on it. The other door, § 87(2)(b) had no marking on it. Lt. McGinn indicated that based on this factors, the officers were positive that § 87(2)(b) was the right apartment. He denied that there was ever any discussion, either prior or after the warrant was executed, that apartment § 87(2)(b) was the wrong apartment.

Lt. McGinn stated that a tactical entry was conducted to enter the apartment. He indicated, based on the tactical plan, that Det. Loporto was the first officer inside the apartment and had the bunker, or large protective shield, with him. Lt. McGinn does not remember the exact order in which the rest of the officers entered the apartment. He was one of the last officers to enter the apartment. Lt. McGinn explained that immediately upon entering the apartment, there was a living room and a bathroom to the right. When the officers first entered, there was no one in the living room. The officers continued down the hallway towards the back, but missed the door leading up to the before mentioned bathroom. Lt. McGinn believed that there were two bedrooms in the back of the apartment, but he was not certain of this. There were two females in one of the bedrooms, one female, § 87(2)(b) had a baby on her arms; the second female, § 87(2)(b) did not have a baby and was therefore handcuffed. Lt. McGinn could not recall who handcuffed § 87(2)(b). She was handcuffed for security reasons. Lt. McGinn indicated that he did not notice that § 87(2)(b) was pregnant. Therefore, to his knowledge, neither of the two females inside was pregnant at the time. Lt. McGinn could not recall whether the two females were left in the bedroom.

After § 87(2)(b) was handcuffed, Lt. McGinn heard some commotion coming from the front of the apartment. Lt. McGinn saw some of the officers “trying to establish control,” of a male, later identified as § 87(2)(b). Apparently, § 87(2)(b) was inside the bathroom when the officers had first entered the apartment. Lt. McGinn could not recall the names of the two or three officers who were dealing with § 87(2)(b). He was “fighting” by swing his arms at the officers, and refusing to be handcuffed. When Lt. McGinn saw the physical confrontation between § 87(2)(b) and his officers, he ordered the officers to make sure that they holstered their weapons to avoid anyone being accidentally injured. Lt. McGinn indicated that no officer who attempted to handcuff § 87(2)(b) had his weapon drawn. Lt. McGinn vehemently denied that an officer placed a weapon against § 87(2)(b)'s head. As § 87(2)(b) continued to resist arrest, officers, including Lt. McGinn gave him numerous orders to stop resisting. § 87(2)(b) was yelling at the officers, but no in English. Therefore, Lt. McGinn did not understand what § 87(2)(b) was saying. Within 30 seconds, officers were able to handcuff § 87(2)(b). Lt. McGinn could not recall whether the officers took § 87(2)(b) down to the ground in order to handcuff him. Lt. McGinn was standing within feet of the officers and § 87(2)(b) and denied that any of the officers punched, hit or kicked § 87(2)(b). Lt. McGinn indicated that the force used by the officers consisted mainly of grabbing and restraining § 87(2)(b)'s arms in order to handcuff him. Lt. McGinn did not physically participate in the altercation with § 87(2)(b).

After § 87(2)(b) was handcuffed, the officers proceeded to search the apartment. Lt. McGinn indicated that one of the officers, Det. Martinez, spoke Spanish. She acted as a translator between the officers and the civilians who did not speak English. In one of the bedrooms, officers found a glass pipe, with what appeared to be crack residue inside. Lt. McGinn indicated that the officers

attempted to find out, from the civilians, who lived in that bedroom. With Det. Martinez' help, it was established that the individual who resided in the bedroom was not present at the time. It was then concluded that the drug dealing was occurring from that bedroom, but that the civilians present at the time of the execution of the search warrant were not involved. Therefore, Lt. McGinn decided that those people would not be arrested. Voided arrest reports were prepared for the three civilians inside. After information was obtained from the civilians, the officers left the scene.

Det. Francis Loporto was interviewed at the CCRB on April 19, 2002 (Enclosure 17A - D) § 87(2)(g)

§ 87(2)(b) He acknowledged the mistake on the tactical plan, which listed the location as § 87(2)(b) and also acknowledged that the search warrant did not list an apartment number. He explained that that was the case because the door to apartment § 87(2)(b) was not marked as such. Det. Loporto went to the location after the confidential information had conducted the first buy and got a layout of the location. Det. Loporto reiterated that the target location was across from apartment § 87(2)(b) and had a steel silver door. That apartment turned out to be apartment § 87(2)(b). Det. Loporto further denied that there were any discussions after the search warrant was executed about whether or not the correct apartment had been searched. Det. Loporto was one of the first officers to enter the location. As he entered, he observed a short Hispanic female in the living room. Det. Loporto immediately realized that this female was pregnant and did not speak English. Because she appeared not to be armed, Det. Loporto continued down the hallway, towards the bedrooms in the back. Inside one of the bedrooms was another Hispanic female, § 87(2)(b) who was not pregnant and spoke English. He could not recall if § 87(2)(b) was handcuffed, but he believes that she was taken to the living room. At that time, a Hispanic male, § 87(2)(b) came out of the bathroom next to the living room. Det. Loporto confirmed Lt. McGinn's testimony that § 87(2)(b) resisted being handcuffed by flailing his arms. Det. Martinez, the only officer who spoke Spanish, gave orders to § 87(2)(b) for him to calm down and stop resisting however, § 87(2)(b) failed to comply. Det. Loporto estimated that it took approximately 30 seconds to finally handcuff § 87(2)(b). Det. Loporto could not recall which other officers assisted him in handcuffing § 87(2)(b). Det. Loporto stated that Lt. McGinn was standing nearby, and confirmed that he ordered the officers to make sure that their weapons were secured. Det. Loporto denied that any of the officers, including himself, hit, punched or kicked § 87(2)(b). Det. Loporto further denied that any of the officers, including himself, placed a weapon to § 87(2)(b)'s head. After § 87(2)(b) was handcuffed, the officers proceeded to search the apartment and found a crack pipe. Det. Loporto confirmed that three voided arrests were prepared for the civilians who were inside the apartment.

Det. Irma Martinez was interviewed at the CCRB on April 30, 2002 (Enclosure 16A - D). Her assignment at the time of the warrant execution was "cuff and toss." She was in charge of handcuffing and frisking anyone inside the apartment once the entry was made. As Det. Martinez made her way towards the back of the apartment, she walked by a bathroom. Det. Martinez noticed that inside the bathroom there was a man and other officers were ordering to come out. Det. Martinez continued down the hallway and entered the first bedroom. There, Det. Martinez encountered a short Hispanic female, later identified as § 87(2)(b). Det. Martinez shouted at § 87(2)(b) "Police, let me see your hands." § 87(2)(b) turned around to face the officer and began to yell at Det. Martinez in Spanish. She was asking, in Spanish, "What's going?" § 87(2)(b) then walked towards Det. Martinez, who was standing by the doorway, in attempt to get out of the bedroom. Det. Martinez also began walking towards § 87(2)(b) and attempted to handcuff her. However, she began to wave her arms. In Spanish, Det. Martinez tried to explain to § 87(2)(b) what was going on, and at the same time handcuffed one of her hands. Det. Martinez then turned § 87(2)(b) around so that she was facing the bed. Det. Martinez then put § 87(2)(b) on the bed,

with her upper torso lying on top of the bed. Det. Martinez did so in order to handcuff § 87(2)(b). Once, § 87(2)(b) was handcuffed, Det. Martinez got her off the bed and at that point realized that she was pregnant. Det. Martinez realized that § 87(2)(b) was pregnant only after she was handcuffed. In Spanish, Det. Martinez asked § 87(2)(b) to relax, to calm down and that she, Det. Martinez, did not want her to get hurt and wanted her to feel comfortable. Det. Martinez then proceeded to uncuff § 87(2)(b). Det. Martinez then escorted § 87(2)(b) from the bedroom to the living room. From the living room, Det. Martinez observed several officers struggling with a Hispanic male, later identified as § 87(2)(b). He was flailing his arms and moving his body around. He was on the floor, in front of the bathroom. § 87(2)(b) was also yelling and kicking at the officers. Det. Martinez identified one of the officers dealing with § 87(2)(b) as Det. Loporto. She was unable to identify any of the other officers. In Spanish, Det. Martinez asked § 87(2)(b) to calm down and to relax. However, she did not physically interfere. The officers were finally able to handcuff § 87(2)(b). Det. Martinez denied that any of the officers hit, punched or kicked § 87(2)(b). Furthermore, she denied that any officer placed a weapon on § 87(2)(b)'s head. Det. Martinez confirmed that the search of the apartment only uncovered a crack pipe, and that voided arrest reports were prepared for the civilians. She denied that there were ever any conversations among the officers that the wrong apartment was entered and searched.

Sgt. Thomas Fraumeni was interviewed at the CCRB on May 7, 2002 (Enclosure 18A - B). He was one of the supervisors of the operation. He also acknowledged the mistake on the tactical plan, and reiterated that the correct apartment was § 87(2)(b) the apartment which was entered and searched at the time of the incident. Sgt. Fraumeni indicated that § 87(2)(b) exited the bathroom after the officers had passed by it. He confirmed that § 87(2)(b) did not speak English. He was yelling and screaming at the officers and also flailed his arms and kicked at the officers. Sgt. Fraumeni estimated that it took five to six officers to handcuff § 87(2)(b). He tentatively identified Det. Loporto, Det. McGinn, Lt. McGinn and himself as the officers who handcuffed § 87(2)(b). Sgt. Fraumeni stated that the force used against § 87(2)(b) consisted of taking him down to the ground, grabbing his arms, and handcuffing him. Sgt. Fraumeni denied that any officer punched, hit or kicked § 87(2)(b). Furthermore, Sgt. Fraumeni stated that the officers had holstered their weapons prior to the physical altercation with § 87(2)(b). Sgt. Fraumeni denied that any officer placed a weapon against § 87(2)(b)'s head. Sgt. Fraumeni denied that as they left the apartment, officers questioned whether or not the correct apartment was searched.

Det. Kenneth McGinn was interviewed at the CCRB on June 10, 2002 (Enclosure 19A - B). His assignment at the time of the incident was "hallway security." He remained outside the apartment, watching the staircase leading up to the third floor, while the rest of the team entered and secured the apartment. After receiving word from the officers inside the apartment, Det. McGinn entered and observed a Hispanic male lying on the ground. Det. McGinn did not witness § 87(2)(b)'s apprehension. When the search of the apartment began, § 87(2)(b) was allowed to sit up on the floor. Det. McGinn was inside the apartment for a very short period of time. He denied that there was any question as to whether or not the correct apartment was entered and searched.

The tactical plan identified three additional officers that participated in the operation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Medical Records

§ 87(2)(b) was treated at § 87(2)(b) two or three hours after the incident (Enclosure 20A - O). He complained of pain to the lower back and abdominal pain and was initially diagnosed with a kidney contusion. However, a CT scan of the chest and abdomen indicated that “both kidneys are normal in size,” and concluded that those regions were normal.

Police Documents

It was Det. Loporto who secured the search warrant for § 87(2)(b). The warrant (Enclosure 21) was signed by Hon. § 87(2)(b) and “commanded, at any time between 6:00 AM and 9:00 PM, without prior notice of purpose or authority, this request being based upon the type of evidence to be seized, namely controlled substances”

One line on the tactical plan (Enclosure 22A - B) for this operation identified the target location as § 87(2)(b). However, officers admitted during their interviews that that was a mistake done when the tactical plan was prepared. As evidence, the officers pointed to the fact that the same tactical plan identified the target apartment as opposite to § 87(2)(b). Three voided arrest reports were prepared for the persons inside the apartment at the time of the warrant (Enclosure 23A - C). It is important to point out that § 87(2)(b) voided arrest report noted that physical force was used to restraint him. According to Property Clerk Invoice, a glass crack pipe with residue was found in the apartment, listed on the invoice as § 87(2)(b) (Enclosure 24).

Civil Lawsuit

§ 87(2)(b) and his wife, § 87(2)(b) have filed a notice of claims against the City of New York, claiming damages in the amount of \$ 50 million dollars. In addition, § 87(2)(b) has also filed a notice of claims against the City of New York, also claiming damages in the amount of \$ 50 million dollars. Both parties are represented by § 87(2)(b). At the time of § 87(2)(b) and § 87(2)(b) interviews with the CCRB, § 87(2)(b) indicated that § 87(2)(b) newborn baby is routinely being evaluated by doctors in order to determine if he suffered any injuries as a result of the incident. Part of the motivation for the lawsuit, and for the damages being sought, is such possibility. He did not make those medical records available, but indicated that the family still does not know whether or not the child was negatively affected. During a phone conversation on July 8, 2002, § 87(2)(b) indicated that the lawsuits were still pending. He added that a 50-H hearing was conducted with § 87(2)(b) and § 87(2)(b). However, he has yet to receive the transcript of the hearing and he does not know when he will get them. § 87(2)(g)

Criminal Conviction Histories

Dating back to 1994, according to the BADS database, neither § 87(2)(b) nor § 87(2)(b) has been arrested.

CCRB Substantiated Histories

Lt. McGinn has one substantiated case, a force allegation in 1994, in his history. However, the final disposition of the case is not available. No substantiated cases appear on Det. Martinez' history.

Conclusions and Recommendations

Undisputed Facts

On July 27, 2001, under the supervision of Lt. Brian McGinn, officers from the Brooklyn South Narcotics District entered and searched apartment § 87(2)(b) inside § 87(2)(b) in Brooklyn. Despite the error on the tactical plan and despite the fact that the apartment was not marked as § 87(2)(e) Det. Loporto's own observations prior to the incident, it is clear that officers entered and searched the apartment for which a search warrant was obtained. § 87(2)(b) and § 87(2)(b) were present at the time. § 87(2)(b) and § 87(2)(b) do not speak English and therefore, did not initially understand what was happening. § 87(2)(b) and a number of officers were involved in a physical altercation. § 87(2)(b) who was eight months pregnant at the time, was also initially handcuffed. However, none of the civilians in the apartment were arrested.

Officers' Identification

Lt. Brian McGinn indicated that he was the overall supervisor of the operation and was present when the search warrant was executed. § 87(2)(g) Upon viewing the officer's photograph, § 87(2)(b) identified Det. Martinez as the officer who handcuffed her. This corroborated by Det. Martinez' testimony. § 87(2)(g) § 87(2)(b) alleges that all the officers in the apartment, except the female officer, Det. Martinez, punched and/or kicked him. The officers interviewed during this investigation admit that force was used against § 87(2)(b) however, the identity of the officers who used the force is unclear. § 87(2)(g) Lastly, § 87(2)(b) alleges that one officer placed a weapon against his head. Upon viewing photographs of all the officers present at the scene, § 87(2)(b) failed to pick the subject officer for this allegation. § 87(2)(g)

Credibility

§ 87(2)(g) From the time that § 87(2)(b) went to the hospital, only a couple of hours after the incident, he complained that officers had used excessive force against him. § 87(2)(b) testimony, that an officer placed her against a bed and handcuffed her, was corroborated by Det. Martinez who admitted of doing so. § 87(2)(g)

§ 87(2)(g) Lt. McGinn indicated that he personally ordered his officers to safeguard their weapons prior to handcuffing § 87(2)(b) In addition, § 87(2)(b) witnessed as the officers attempted to handcuff § 87(2)(b) and she did not see an officer place weapon to § 87(2)(b)'s head.

§ 87(2)(g) He did not make this allegation to the medical staff or the IAB investigator who

interviewed him only hours after the incident. It was not until he was interviewed by the CCRB, after he had initiated a lawsuit against the city that § 87(2)(b) came up with this allegation.

§ 87(2)(g)

Allegation A: Lt. Brian McGinn supervised the entry and search of § 87(2)(b) in Brooklyn

§ 87(2)(g)

§ 87(2)(e), § 87(2)(f)

It is important to point out that there were only two apartments in this floor. The warrant was executed at approximately 9:00 AM, § 87(2)(g)

Allegation B: An officer placed a weapon against § 87(2)(b)'s head

§ 87(2)(b) made this allegation for the first time to the CCRB, after he had filed a lawsuit against the city. § 87(2)(g)

§ 87(2)(b) failed to make this allegation to the medical staff and to IAB, only hours after the incident. Lt. McGinn ordered his officer to holster their weapons before physically engaging § 87(2)(b) a fact corroborated by Det. Loporto. § 87(2)(g)

Allegation C: Officers used physical force against § 87(2)(b)

The fact that officers used physical force against § 87(2)(b) is not in dispute. The officers described § 87(2)(b) as a suspect who resisted being handcuff. § 87(2)(g)

§ 87(2)(b) indicated that § 87(2)(b) did try to get away from the officers § 87(2)(g)

§ 87(2)(b) was originally diagnosed at the hospital with a renal contusion, a subsequent CT scan of the chest and abdomen indicated that those regions were normal. § 87(2)(g)

However, the medical records show only minor bruises.

§ 87(2)(g)
[REDACTED]

Allegation D: Det. Irma Martinez used physical force against § 87(2)(b)

§ 87(2)(g) Det. Martinez admitted that she grabbed § 87(2)(b) turned her around, put her upper body on top of the bed and handcuffed her. § 87(2)(b) alleges that these actions by the officers constituted excessive force. Det. Martinez assignment was to handcuff all the civilians inside the location. § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED] § 87(2)(b) was yelling and screaming, and attempted to leave the bedroom. Even after the Det. Martinez spoke to her in Spanish, § 87(2)(b) continued this behavior. § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

The family is suing the city, in part because of the possibility that the newborn baby might have received injuries when § 87(2)(b) was placed on the bed. The family's attorney indicated that the baby is being seeing by several doctors. However, he did not specify the nature of the injuries, or whether or not the baby has in fact any injuries. § 87(2)(g)

§ 87(2)(b) at the time of the incident, § 87(2)(b) did not seek medical attention. An Ambulance responded to their apartment within hours of the incident and transported § 87(2)(b) to the hospital. But § 87(2)(b) was not treated or transported to the hospital, § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: